IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2248 OF 2004

Shri Janardan Tukaram Mhatre ...Petitioner.

V/s

Shri Amir Hadimohommad Somji
and another ...Respondents.

Ms. Gauri Godse, advocate for the petitioner.

Mr. Subhash Jadhav i/b M/s. Khaitan & Jaykar,
advocate for respondent No.1.

Mr. D.P. Adsule, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 16th February, 2005

P.C.

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the respondent No.1 and the learned APP for the State.

2. The petitioner takes exception to the judgment and order passed by the IInd Ad-hoc Assistant Sessions Judge, Raigad whereby application made by the petitioner for hearing the three appeals together was rejected by the Assistant Sessions Judge.

3. Brief facts are that the respondent No.1 filed three summary cases against the petitioner for an offence punishable under section 138 of the Negotiable Instruments Act, 1881. The three cases were tried

independently and the petitioner was convicted. Against the said order of conviction and sentence, the petitioner preferred three appeals being Appeal Nos.61 of 2003, 62 of 2003 and 63 of 2003. Application was made in Criminal Appeal No.61 of 2003 and it was prayed that other two appeals viz. Appeal No.62 of 2003 and Appeal No. 63 of 2003 be heard along with the Criminal Appeal No.61 of 2003. The Assistant Sessions Judge, however, observed that the application had been preferred under the provisions of section 219 of the Criminal Procedure Code. The Sessions Court observed that the petitioner had not preferred any application for joint trial in the trial court and that the three criminal complaints were independently tried and separate judgments were delivered in these three cases. The Assistant Sessions Judge, therefore, rejected the application of the petitioner.

4. It is submitted on behalf of the petitioner that three appeals were arising between the same parties in respect of three cheques which were issued by the petitioner in favour of respondent No.1. It is submitted that in the interest of justice all three appeals should be decided together by the same judge so that contrary and inconsistent view is not taken by different courts if three appeals are heard by

separate courts.

5. In my view, ends of justice will be met if three appeals are tagged together and are heard by the same judge. It is up to the Sessions Judge to decide whether a common judgment should be delivered in these three appeals or separate judgment should be delivered in each case. However, it would be appropriate if the appeals are tagged together and are heard by the same judge. The order of the ad-hoc Assistant Sessions Judge is accordingly set aside. He is directed to tag three appeals together and these three appeals should be heard and disposed of by the same judge.

6. Petition is allowed in the above terms. The Assistant Sessions Judge is directed to decide the appeals expeditiously within a period of two months.

V.M. KANADE, J.